

Understanding Why Victims of Abuse Do Not Report

- Lack of Self Confidence
- Abuse or Neglect is a Way of Life, Do Not Consider Someone Would Help Them
- Past Assistance Resulted Escalated the Abuse
- Some Cultures Believe Family Matters Stay in the Family
- Victim May be Ashamed or Embarrassed
- Promise Not to Tell if it Stops Being Inflicted on Victim or Victim's Pet
- Withholding of Care or Necessities if the Victim Reports
- Fear or Threat of Being Place in a Nursing Home

Why Mandatory Reporters Do Not Report

- Hurt the relationship with the victim and or the person suspected of having abused the person.
- Retaliation from the victim or perpetrator
- Fear of losing their job
- Take time out from job to make the call and end up having to make many calls and then get called back
- Court time – loss of work time
- Nothing changes and everyone involved gets upset
- Don't want to get involved – it is not any of my business

Why Abuse Occurs

- Retaliation
- Violence As A Way of Life
- Unresolved Conflict
- Lack of Close Family Ties
- Lack of Financial Resources
- Resentment of Dependency
- Increased Life Expectancy
- History of Mental or Emotional Problems
- Unemployment
- History of Alcohol and Drug Abuse
- Long Distance Care Giver

Common Characteristics of Victims

- Female
- Advanced Age
- Dependent
- Problem Drinker
- Intergenerational Conflict
- Internalizing the Blame
- Isolation

Elder Abuse and Dependent Adult Abuse

Elder Abuse – Older Americans' Act:

Abuse, Neglect or Exploitation of an individual age 60 or older

Beginning July 1, 2014, newly established Iowa Code Chapter 235F, Elder Abuse Relief becomes effective and creates an elder abuse definition and law for civil elder abuse relief. Currently, the law does not mandate reporting of elder abuse; however, if mandatory reporters encounter such situations or circumstances that do not meet the criteria for dependent adult abuse, contact:

LifeLong Links at 866-468-7887
for available services and supports

Dependent Adult Abuse (DAA) – Iowa Code

- Dependent Adult (Age 18 or older)
- Caretaker
- Allegation of Abuse recognized by 235B or 235E

Dependent Adult Abuse Agency Roles

Department of Human Services (235B) evaluations / assessments in:

- Community (residential home, apartment, mobile home)
- Independent Living
- Facilities, Programs, Hospitals When the Perpetrator is a not an employee or staff

Department of Inspections and Appeals (235E) investigations in:

- Facilities (health care facility, hospital)
- Programs (assisted living, elder group homes, adult day services)

Department on Aging

- Advocacy
- Information
- Training



Community – DHS 235B

Definitions

Dependent Adult means a person eighteen years of age or older who is unable to protect his/her own interests **or** is unable to adequately perform **or** obtain services necessary to meet essential human needs, as a result of a physical **or** mental condition which requires assistance from another, or as defined by departmental rule.

Caretaker means a related or non-related person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

Voluntary Caretaker

“Related or non-related person who has the responsibility for the protection, care, or custody of a dependent adult **as a result of assuming the responsibility voluntarily,**” means a person voluntarily provides care to a dependent adult and according to 235B.1 is considered the dependent adult’s caretaker.

Examples:

- Any person providing a daily meal to the dependent adult
- Any person providing daily care to the dependent adult
- Any person providing care to a resident of a health care facility or program
- An Attorney in Fact (Power of Attorney)

Contract Caretaker

“Related or non-related person who has the responsibility for the protection, care, or custody of a dependent adult **as a result of a contract**” means the dependent adult and the person have a contract wherein the person agrees to provide care to the dependent adult according to 235B.1 is the dependent adult’s caretaker.

Examples:

- Dependent adult receives funding for health care on an individual contract basis such as Consumer Directed Attendant Care (CDAC) program or In-Home Health Related Care program.
- Individual and dependent adult enter into a private contract where the individual provides care to the dependent adult in exchange for money or anything else of value (room, board, vehicle, etc.)

Employment Caretaker

“Related or non-related person who has the responsibility for the protection, care, or custody of a dependent adult **through employment**,” means the person is employed and is being paid a salary to provide care to a dependent adult and according to 235B.1 is the dependent adult’s caretaker.

Examples:

- Dependent adult hires a neighbor to provide an evening meal and pays the neighbor \$40 week
- A service agency arranges for paid staff to provide services to a dependent adult
- Relatives agree to contribute equally to paying for a granddaughter to provide care to grandma, the dependent adult. The granddaughter is the caretaker.

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Court Ordered Caretaker

“Related or non-related person who has the responsibility for the protection, care, or custody of a dependent adult **by order of the court**” means a person has been appointed by the court to assume the responsibility for the dependent adult’s protection, care or custody and according to 235B.1 is the dependent adult’s caretaker.

Examples:

- Guardian
- Conservator

An 83 year old man experiencing loss of memory forgot to pay his bills resulting in the phone and electricity being disconnected. His relatives came together and petitioned the court for a niece to assume responsibility for him. The court appointed the niece as guardian and conservator.

Dependent Adult Abuse

Dependent Adult Abuse is defined by any of the following as a result of the willful, negligent acts or omission of a caretaker:

- Physical Abuse
- Sexual Abuse
- Sexual Exploitation
- Exploitation
- Denial of Critical Care
- Self Denial of Critical Care

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Physical Abuse

“Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement or unreasonable punishment, or assault of a dependent adult, as a result of the willful or negligent acts or omissions of a caretaker.”

Iowa Code 235B.2

Assault. A person commits an assault when, without justification the person does any of the following:

- Commits any act which is intended to cause pain or injury to a dependent adult, or which is intended to result in physical contact which will be insulting or offensive to a dependent adult, coupled with the apparent ability to execute the act.
- Commits any act, which is intended to place a dependent adult in fear of immediate physical contact, which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
- Intentionally points any firearm toward a dependent adult or displays in a threatening manner any dangerous weapon toward a dependent adult.

An assault does **NOT** have to involve a physical injury. A person can be assaulted and not have any injuries.

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Indicators

- ❖ Injury that has not been cared for properly
- ❖ Any injury incompatible with history
- ❖ Pain on touching
- ❖ Cuts, lacerations, or puncture wounds
- ❖ Dehydration and/or malnourishment without illness related cause; weight loss
- ❖ Sunken eyes, cheeks
- ❖ Evidence of inadequate care
- ❖ Eye problems, retinal detachment
- ❖ Poor skin hygiene
- ❖ Absence of hair or hemorrhaging below scalp
- ❖ Soiled clothing or bed
- ❖ Burns
- ❖ Locked in a room
- ❖ Lack of bandages on injuries or stitches when indicated, or evidence of unset bones
- ❖ Heavy or excessive medication

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Examples

- Unauthorized use of physical or chemical restraints
- Administration of medications or enforced isolation as punishment or simply for convenience
- Use of substitute treatment in conflict with a physician's order



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Case Studies

Physical Abuse:

Sally, age 63, was treated for a fractured jaw. She states that this happened as the result of a fall. The hospital nurse is concerned that Sally may have been struck by her husband because a third party told the nurse there is a history of domestic violence in the home. Sally has heart failure, diabetes and depression.



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Assault

James, age 81, resides with his spouse in independent living. He has a section 8 housing apartment and shares his home with his wife, Emma, age 78. James has a CDAC provider who comes to assist him in the home. James is on the elderly waiver but the reporter is not sure of what his medical issues are. James told his visiting nurse that his provider threatened him and said that James is disgusting for needing all this help taking care of himself and that if James didn't start trying harder to be independent or at least cooperate, his provider was going to "lose it." James said this was strange because his provider was in his face and had a hold of his shirt at the time. James had just mentioned this saying he thinks his provider Greg might not like him.

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Sexual Exploitation

“Any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to...”

Iowa Code 235B.2

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Indicators

- Person's behavior changes drastically, such as acting out, angry, lashing out, inappropriate affect.
- Person is depressed or symptoms of other mental health issues.
- Person acts afraid in the presence of caretaker.
- Person does not want to be left alone with the caretaker.
- Genital or anal bruises
- Vaginal or anal bleeding
- Swelling or redness of genital area
- Venereal Disease

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Examples

- Kissing
- Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals
- A sex act, defined in section 702.17 of the Code of Iowa
- Includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation.
- Does NOT include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of practice or employment of the caretaker; a brief touch or hug for the purpose of reassurance, comfort, or casual friendship; or touching between spouses

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Case Study

Betsy is 45 and has In Home Health. Her IHHRC provider is a family friend who comes in to assist Betsy with ADL's and homemaking. The provider has been coming to the home about 4 months. Betsy requires services in relation to being quadriplegic. She presents as quite lucid and does not lack capacity to consent. However, historically she has been involved in drugs and allowing those who are drug dealing to live with her. Recently, she became pregnant. Betsy is thrilled and says that Mark might not react too well. When asked who Mark is, she says he is a family friend who comes and helps her sometimes at home.

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Sexual Abuse

“The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker.”

Iowa Code 235B.2

This includes the following categories:

- First-degree sexual abuse (IC 709.2)
- Second-degree sexual abuse (IC 709.3)
- Third-degree sexual abuse (IC 709.4)
- Detention in a brothel (IC 709.7)
- Indecent exposure (IC 709.9)
- Assault with intent to commit sexual abuse (IC 709.11)
- Sexual exploitation by a counselor or therapist (IC 709.15)
- Invasion of privacy, nudity (IC 709.21)
- Incest (IC 726.2)
- Sexual exploitation of a dependent adult (IC 235B.2)

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Case Study

Anna, age 85 is in nursing facility care due to advanced stages of Alzheimer's. She experiences time in the community with her husband Tom. He takes her out for visits for a few hours sometimes with other family members and sometimes not. Recently, a family member expressed concern to you when coming in to visit. Anna's daughter Emily stated that Tom and her mom were at the house before Emily came over to visit her for a bit. Emily states that she came over earlier than planned and no one answered the door so she went inside the house. She states that when she walked in, Tom was dressing while walking to the door and her mom was on the bed looking disheveled. Anna states that she asked her mom if she was okay to which she replied "I don't know." Emily offered to help her mom and after asked Tom what happened. He replied it was not Emily's business. Emily isn't sure what to do about this but said it seems like her mom was not having a good day. She also noted this was an afternoon visit and they took her mom back by supper. Emily said her mom didn't tell her anything more.



Statistics on Sexual Abuse of Persons With Disabilities

- 99% of persons with developmental disabilities have had no sex education
- 83% of women and 32% of men with developmental disabilities have experienced sexual assault
- 70% of women with disabilities have been violently sexually victimized at some point in their lives

Sexual assault is not spontaneous or accidental and communities tend to blame the survivors. It is often treated as scandals, internal personnel matters, or public relation problems

Victims are Frequently Thought to Be Seeking Attention

- “She wants special privileges so she doesn’t have to follow the rules.”
- “That’s what her roommate said last month.”
- “They all accuse someone.”
- “She wants you to feel sorry for her and spend extra time with her.”

Victims are Frequently Thought to Be

Asexual or Hypersexual

- “Why is she complaining? She is lucky to get any action.”
- “Who would want to rape someone who drools?”
- “She probably doesn’t even know what happened.”
- “If we teach her about sex, she’ll just want to do it.”

Victims are Frequently Thought to Be

Not credible witnesses

- People with disabilities lie all the time about a lot of things.”
- “If she can’t tell us the date, what can she tell us?”
- “She giggles whenever she talks about it.”
- “People like her have an active imagination.”

- *Source: Iowa Coalition Against Sexual Assault Training 2006, Who, What, When: A Symbol Book For Communicating with Women Survivors of Sexual Abuse Who Use Augmentative and Alternative Communication*

How is Sexual Abuse Different with Age or Frailty?

- Lack of a strong support system
- Beliefs about sexual abuse increase feelings of shame and guilt
- May complicate an existing illness
- Longer recovery time dealing with abuse
- Increased chance of sustaining serious injury
- Increased genital tearing and bruising
- Pelvis or hip bones can be broken by friction and weight
- Increased risk of infections

Source: Speaking Out on a Silent Crime, NCEA Newsletter, 2004, Vierthaler, Karla



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Exploitation

“The act or process of taking unfair advantage of a dependent adult or the adult’s physical or financial resources for one’s own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses as a result of the willful or negligent acts or omissions of a caretaker.”

Iowa Code 235B.2



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Indicators

- Dependent adult is inaccurate, confused or has no knowledge of finances
- Disparity between income / assets and lifestyle or living arrangement
- Caretaker expresses unusual interest in the amount of money being expended for the care of the dependent adult
- Unpaid bills when resources should be adequate
- Caretaker is evasive about financial arrangements
- Signatures on checks don't match dependent adult's
- Unusual activity in bank accounts
- Dependent adult turns over financial affairs to someone in exchange for lifelong care, but does not appear to have basic necessities such as food and shelter
- Caretaker begins to handle the dependent adult's financial affairs without their presence or without consultation.

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Examples

- Misuse of power of attorney or conservatorship
- Identity theft
- Scams
- Coercion into signing or changing legal documents
- Taking or misusing a dependent adult's property, money, social security or pension check, food stamps, medication, etc.



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Case Study

Dorothy, age 76, lives with her adult daughter Anne. Dorothy has a history of stomach cancer and has an in home provider coming to her home once per week for homemaker services. Anne is Dorothy's power of attorney. Reporter alleges that Dorothy was historically in a domestic violence relationship with her husband Earl, now deceased. Earl is Anne's father. Dorothy was taking oxycodone and tramadol for pain due to a broken femur. She has since healed but has residual pain and remains on pain medication. Once, Anne took her mother's pain medication away stating that her mother doesn't need them and is a "druggie." Dorothy doesn't understand where her medication goes. She doesn't recall taking it and has been experiencing a lot of pain. Dorothy is diagnosed with dementia (stage unknown). Anne tries to prevent Dorothy from seeing other family members but is frequently seen out shopping in the community. Reporter states that she is not aware of Anne's employment status.



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Denial of Critical Care

(also known as NEGLECT)

“The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or health, as a result of the willful or negligent acts or omissions of a caretaker.”

Iowa Code 235B.2

Administrative Code 176.1 adds “Denial of Critical Care exists when the dependent adult’s basic needs are denied or ignored to such an extent that there is immediate or potential danger of the dependent adult suffering injury or death, or the failure to provide the mental health care necessary to adequately treat the dependent adult’s serious social maladjustment, or is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal development, or a failure of the caretaker to provide for the proper supervision of the dependent adult.



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Indicators

- Pattern of failure to provide adequate food; malnourishment, or food in home, food contamination or spoilage
- Lack of clothing to adequately provide protection from the weather
- Lack of heat; unsanitary or hazardous conditions
- Refusal to provide medical evaluation for condition detected by medical personnel
- Failure to follow through with medical treatment plan recommended by health professional
- Unable to manage affairs because of confusion and deterioration
- Leaving dependent adult who is incapable of self-supervision without a responsible caretaker
- Knowingly selecting an inappropriate caretaker
- Abandonment



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Examples

- Withholding of care, medication, food, liquids, assistance with hygiene, etc.
- Failure to provide physical aids such as eyeglasses, hearing aids, false teeth
- Failure to provide safety precautions and access to care



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Case Study

Phil, age 83, uses a wheelchair for a mobility disability. He is diagnosed with Parkinson's and dementia. His dementia is in the early stages. Phil administers his own medications, makes his own decisions and can identify when he needs to use the toilet. Phil depends on his wife, Marie, to provide for his hygiene, cooking, dressing and transportation. Phil has been complaining recently of back pain from a fall in his home last week. Marie has not taken Phil for a medical assessment of his possible injury. Marie indicates that it would depend on her schedule and ability to get him to the doctor. Phil wanted to be taken to the doctor but Marie has not taken him. Denial of critical care is alleged.



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Denial of Critical Care
(Self-Neglect)

“The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or health, as a result of the acts or omissions of the dependent adult.”

Iowa Code 235B.2



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Indicators

- Failure to provide adequate food, shelter or clothing
- Intentional physical self abuse
- Suicidal statements
- Refusal of medical treatment or medication (refusal not based on religious grounds)
- Refusal of services that might alleviate the situation, when once would have accepted
- Refusal of visitors
- Denial of obvious problems



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Examples

- Unable to prepare food or obtain groceries
- Unable to care for self
- Confused and unable to understand living conditions
- Holes in the floors and walls of home
- Home is cluttered with garbage health hazard

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Case Study

Pearl, age 80, is alleged to present as increasingly confused and disoriented. She will fall in her home and once hit her face on the bathroom sink but forgot to press her life alert button. Pearl was recently seen driving on the wrong side of the road. Pearl lives on her own and has said she is afraid to see her doctor because she is afraid he will say she has dementia. Pearl reports having anxiety and obsessive thoughts. Pearl says she is increasingly confused.



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Dependent Adult Abuse Is NOT:

There are some situations which may appear to be dependent adult abuse but, according to the Iowa Code and Administrative Rules, they do not apply.

1. **Refusal or deprivation of medical treatment based on religious beliefs.** The practices and beliefs of some religions call for reliance on spiritual means for healing rather than medical treatment. A patient may refuse treatment based on religious grounds.
2. **Withholding, withdrawing or refusing medical treatment based on terminal illness.** If based upon the request of the dependent adult, their next-of-kin, attorney-in-fact (power of attorney), or guardian.
3. **Domestic abuse.** In domestic abuse situations where the victim is not dependent as defined in law.
4. **Persons incarcerated in a penal setting.** While one could make a case that an incarcerated person is a dependent adult, the Code excludes these persons from the Dependent Adult Abuse Law.
5. **Lack of means or access to means for providing care.** Where there is a lack of means to care for a dependent adult, the caretaker would not be guilty of perpetrating denial of critical care. Likewise, cases where a dependent adult lacks the means to care for her or himself would not be considered self-denial of critical care.

Iowa Administrative Rules 441, Ch 176.3(2) & Iowa Code 235B.2(5)(b)



Facilities & Programs

DIA 235E

Facilities and Programs (DIA) 235E

The Department of Inspections and Appeal (DIA) is responsible for reports of dependent adult abuse in facilities and programs.

Facility means a health care facility (135C.1) or a hospital (135B.1) and includes:

1. Long term care facilities
2. Residential care facilities
3. Intermediate care facilities for persons with mental illness
4. Intermediate care facilities for persons with mental retardation
5. Hospitals

Program means:

1. Elder group homes (231B.1)
2. Assisted living programs (231C.3)
3. Adult day services (231D.1)

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Definitions

Dependent adult. A person eighteen years of age or older whose ability to perform the normal activities of daily living **OR** to provide for the person's own care **OR** protection is impaired, either temporarily **OR** permanently.

Caretaker. A person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court. For the purpose of an allegation of exploitation, if the caretaker-dependent adult relationship started when a staff member was employed in the facility, the staff member may be considered a caretaker after employment is terminated.



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Dependent Adult Abuse

Any of the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:

1. Physical Injury, Unreasonable Confinement, Unreasonable Punishment, and Assault

- a. **Physical Injury.** A physical injury or injury which is at a variance with the history given of the injury which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances.

Case Study

Staff discover a large hematoma on a resident's arm in the morning that was not present during the resident's bath the previous evening. The resident says the aide who helped her on to the bed pan overnight was frustrated and handled her roughly. The resident describes the aide and the description accurately matches that of the one staff who provided cares to the resident on the overnight shift. The resident has no cognitive impairment and no history of false allegations against staff.

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b. Unreasonable Confinement. Confinement that includes but is not limited to, the use of restraints, either physical or chemical, for the convenience of staff. “Unreasonable confinement” does not include the use of confinement and restraints if the methods are employed in conformance with state and federal standards governing confinement and restraints or as authorized by a physician or physician extender.

Case Study

A nurse uses a gait belt to tie a resident to a dining room chair because the resident keeps getting up from the table and disrupting other residents during mealtime. Staff are tired of redirecting the resident per the care plan and want to get their other work done. The gait belt is utilized for convenience rather than for safety/protection of the resident.



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- c. **Unreasonable Punishment.** A willful act or statement intended by the caretaker to punish, agitate, confuse, frighten, or cause emotional distress to the dependent adult. Such willful act or statement includes but is not limited to intimidating behavior, threats, harassment, deceptive acts, or false or misleading statements.

Case Study

As punishment for a resident soiling herself and a staff member having to clean it up, the staff member makes the resident sit in the facility dining room for several hours late into the night, knowing the resident prefers to stay in her room and routinely goes to bed in the early evening



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d. **Assault.** “**Assault of a dependent adult**” means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

Case Studies

- A resident spits on a staff member. The staff member spits back.
- A staff member covers a resident's mouth with their hand because they are tired of the resident yelling.

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2. **Sexual offense:** The commission of a **sexual offense** under chapter 709 or section 726.2 with or against a dependent adult.
3. **Exploitation:** A caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult's funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

Case Study

Theft by a caretaker of a resident/tenant's personal property or medication.



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4. **Neglect of a dependent adult.** The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or physical or mental health.

Case Study

A staff member knows a resident is care planned for a two person transfer with a hooyer lift. The staff member has been disciplined in the past for transferring residents alone when they are care planned for two people. The staff member responds to a resident's call light. The resident is in his wheelchair and wants to go to bed. The staff member attempts to transfer the resident alone without the hooyer and the resident falls to the floor and is injured.



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5. Sexual exploitation of a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. “Any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17.

“Sexual exploitation” includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing investigation



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Case Studies:

- A staff member engages in sexual conduct (kissing) with a resident. The two state the conduct is consensual.
- A staff member takes a picture with her cell phone of an unclothed resident seated on the toilet. The picture is sent to a friend via snap chat. The image shows the resident's breasts and genitals.



Dependent Adult Abuse Does Not Include:

- ❖ Circumstances in which the dependent adult or the dependent adult's caretaker acts in accordance with the dependent adult's stated or implied consent, declines medical treatment or care due to a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

- ❖ The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult's next of kin, attorney in fact, or guardian.

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Reportable Criteria:

(To make a dependent adult abuse report)

Dependent Adult

Allegation of Abuse

Caretaker

Victim Behavioral Indicators

- Fear
- Withdrawal
- Depression
- Helplessness or resignation
- Hesitation to talk openly
- Implausible stories
- Confusion or disorientation
- Ambivalence/contradictory statements
- Anger
- Non-responsiveness
- Agitation or anxiety

Abuser Behavioral Indicators

- The victim is not allowed to speak for him/herself
- Obvious absence of assistance
- Attitudes of indifference or anger toward victim
- Caretaker blames the victim
- Aggressive behavior
- Previous history of abuse to others
- Problems with alcohol or drugs
- Flirtations, coyness, etc.
- Conflicting accounts of incidents by the family, supporters, victim
- Non-compliance with service providers in planning for care and implementation
- Withholding of security and affection
- Perpetrators frequently groom their targets

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Types of Perpetrators

1. **Well intentioned:** Overwhelmed, stressed, lashing out (Caretaker who means well, but tries to do too much)
2. **Well intentioned:** Ignorant – incompetent (Doesn't really understand how to take care of someone. Alzheimer's patient tied to a chair, while caregiver goes shopping.)
3. **Lacks interest and concern:** (A lazy person who needs job, doesn't take pride in work, just wants an "easy" paycheck)
4. **Abusive:** Motivated by self-interest, power and control (Gains trust of dependent persons, manipulates dependent person into signing over all his/her money)
5. **Sadistic:** Enjoys hurting, extreme power and control (Looks for jobs with position and authority to gain control over people for the purpose of hurting others)

Source: Holly Ramsey-Klawnsnick, PhD, Klawnsnik & Klawnsnik Associates, Canton MA



Expected Results from Perpetrators

1. Admission of guilt, embarrassment, desire to do better
2. Admission – believes abusive action was justified
3. Varies with IQ and social sophistication
4. Denial, outrage, rationalizations, attempts to “turn the tables” on the victim, reporter and/or investigator
5. Denial, outrage, rationalizations, attempts to “turn the tables” on the victim, reporter and/or investigator.

Source: Holly Ramsey-Klawnsnik, PhD, Klawnsnik & Klawnsnik Assoc Canton MA



Community – DHS (235B)

Mandatory Reporter

A person who, in the course of their employment examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse.

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Dependent Adult Abuse Mandatory Reporter Training**

Persons Required to Report include all of the Following:

- ▶ A member of the staff of a community mental health center
- ▶ A peace officer
- ▶ An in-home homemaker health aide
- ▶ An individual employed as an outreach person
- ▶ A health practitioner
- ▶ A member of the staff or an employee of a supported community living service, sheltered workshop, or work activity center
- ▶ A social worker
- ▶ A certified psychologist
- ▶ A person who, in the course of employment, examines, attends, counsels, or treats dependent adults

**...then you are a
Mandatory Reporter**



Mandatory Reporters Shall

- Report suspected abuse of a dependent adult within 24 hours of becoming aware of an abusive incident.
- Make a written report within 48 hours after an oral report
- Make an oral report to an appropriate law enforcement agency when the person making the report has reason to believe that immediate protection for the dependent adult is advisable
- Immediately notify the department and shall also immediately notify the person in charge or the person's designated agent.

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Dependent Adult Abuse Mandatory Reporter Training**

Iowa Code 235B.3 (3)(b)

The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.



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Reporting Procedures Community DHS (235B)

Reports of suspected abuse in the community **shall** be made to the local DHS offices, or **800/362-2178**.

Local phone numbers and fax numbers can be found at the DHS website:

www.dhs.state.ia.us/#

Click on “Public Information” Click on “Contact Us”



Facilities & Programs – DIA (235E)

Mandatory Reporter

A staff member or employee of a facility or program who, in the course of employment examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered abuse, shall report the suspected dependent adult abuse to the department.

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Iowa Code 235E.2 (3)(a) & IAC 481-52.2 (a) & (b) If a staff member or employee is required to make a report pursuant to this section, the staff member or employee shall immediately notify the person in charge or the person's designated agent who shall then notify the department within 24 hours or the next business day of such notification. If the person in charge is the alleged dependent adult abuser, the staff member shall directly report the abuse to the department within 24 hours or the next business day.



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Iowa Code 235E.2 (3)(b) & IAC 481-52.2(2)(d) The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.



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Reporting Procedures Facilities & Programs – DIA (235E)

Reporting Procedures Incidents of abuse in facilities or programs (long-term care, assisted living, elder group homes, adult day services, hospitals, etc.) are investigated by the Department of Inspections and Appeals. To report suspected abuse, call toll free:

Phone: 877/686-0027

Fax : 515-281-7106

or

https://dia-hfd.iowa.gov/DIA_HFD/Home.do



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Immunity from Liability

Iowa Code 235B.3 provides for:

A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed.



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Legal Responsibilities

- Shall report suspected dependent adult abuse orally AND in writing
- Shall complete two hours of training within six months of initial employment and 2 hours every 5 years thereafter [(Iowa Code 235B.16(5)(b))]
- Must report to law enforcement if immediate protection of dependent adult is advisable
- Must cooperate with DHS and/or DIA



Mandatory Reporter Rights

- To receive a copy of the notice of finding of the report
- To request and receive a copy of the report for founded and unfounded incidents. (Iowa Code 235B.6(2)(b)(6) and 235B.6(3) respectively)
- Immunity from liability civil or criminal [(Iowa Code 235B.3(10))]
- May remain anonymous when the disclosure of the reporter's identity would be detrimental to the person's interest [441 IAC 176.10(3)]

Sanctions

- Any mandatory reporter who knowing and willfully fails to report suspected dependent adult abuse is guilty of a simple misdemeanor. The reporter is also civilly liable for damages caused by that failure to report.
- Any mandatory reporter who knowingly reports *false* information about abuse is guilty of a simple misdemeanor.

Permissive Reporter

Permissive Reporters meet either of the following conditions:

1. Any person who believes a dependent adult has suffered dependent adult abuse
2. A mandatory reporter, as defined by law, who believes a dependent adult has suffered dependent adult abuse

BUT

Became aware of the information other than through the course of employment

Reporting Suspected Dependent Adult Abuse to DHS

1. Make oral report (24 hours)- DHS Completes Intake Form (470-0657)
2. Reporter will receive the Dependent Adult Abuse Notice of Intake Decision (470-3944) Typically the form is received within 10 days.
3. Reporter completes a written report (48 hours) the DHS Suspected Dependent Adult Abuse Report 470-2441 may be used.

SUGGESTION:

Within the 24 hours requirement, complete the written report and then make the oral report. On the written report, note the date and time the report is made as well as the name of the individual receiving the report. Ask the intake worker for the fax number and indicate the written report will be faxed as soon as you are off of the phone.

4. Reporter will receive from DHS the Adult Protective Notification (470-2444). If you should disagree with the determination the notice provides information on how to appeal the decision.

NOTE: If you wish to receive a copy of the unfounded or founded report (highly recommended), complete the form on the back of this notification and return it to DHS.

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Dependent Adult Abuse Mandatory Reporter Training**

Reporting Suspected Dependent Adult Abuse to DIA

When dependent adult abuse is suspected an oral report must be made within **24 hours or the next business day**. In addition, federal law requires that a written report must be made within **5 days**. Remember the timeframe is of when you first suspect abuse

Register Reports by:

- Calling toll free: **(877) 686-0027**

AND

- Fax the report to **(515) 281-7106**

OR

- Via the internet using the online form at

[**https://dia-hfd.iowa.gov/DIA_HFD/Home.do**](https://dia-hfd.iowa.gov/DIA_HFD/Home.do)

OR

- Submit by regular mail to:

Iowa Department of Inspections and Appeals
Health Facilities Division/Complaint Unit
Lucas Building, 321 East 12th Street
Des Moines, Iowa 50319-0083



Medicaid Fraud

Call: (515) 281-5717

or

(515) 281-7086

Medicare Fraud

Call: 800-447-8477

or

Email HHSTips@oig.hhs.gov

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The Evaluation Process

Department of Human Services
(Community Evaluations)

Department of Inspections and Appeals
(Facility, Program, Elder Group Home, Adult Day Service and Hospital Investigations)

Law Enforcement
(Criminal Investigations)

Joint
(Parallel investigations may occur when a situation involves dependent adult abuse and a criminal offense)



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Report Conclusions

FOUNDED: Requires a preponderance of evidence that abuse has occurred

UNFOUNDED: Requires preponderance of evidence that abuse has not occurred

(Reports remain in the local DHS office for 1 year and are then destroyed –
DHS only)

Preponderance = 51% or greater

OR

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CONFIRMED, NOT REGISTERED:

- a. **Under 235B (DHS)** - A report of dependent adult abuse that meets the definition of physical abuse or denial of critical care to a dependent adult by a caretaker which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department as an assessment only for a five-year period and shall not be included in the central registry and shall not be considered to be founded dependent adult abuse. However, a subsequent report of dependent adult abuse that meets the definition of physical abuse or denial of critical care by a caretaker that occurs within the five-year period and that is committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur shall not be considered minor, isolated, and unlikely to reoccur.

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- b. **Under 235E (DIA) IAC 481-52.3(a) & (b)** Reports of Abuse that is minor, isolated, and unlikely to reoccur.
1. **Minor, isolated, and unlikely to reoccur – first instance.** A report of dependent adult abuse that meets the definition of physical abuse assault, unreasonable confinement, unreasonable punishment, or neglect of a dependent adult which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services for a five-year period, shall not be included in the central registry and shall not be considered to be founded dependent adult abuse.
 2. **Minor, isolated, and unlikely to reoccur – subsequent instance(s).** A subsequent report of dependent adult abuse that meets the definition of physical abuse, assault, unreasonable confinement, unreasonable punishment, or neglect of a dependent adult that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur depending on the totality of circumstances.

Appeals of Dependent Adult Abuse Reports under 235B and 235E

235B (DHS)

With the exception of nurse aides, any subject of a report (or that person's attorney) may request an appeal within 6 months from the date of the notice of the finding (Iowa Code 235B.10). Subjects of a report are:

- The dependent adult
- The dependent adult's guardian or attorney
- Individual responsible for the abuse
- The attorney for the individual responsible for the abuse

A nurse aide who is the subject of a report may request a hearing within 30 days from the date of the notice of the finding. (IAC 441 – 81.16(6))

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235E (DIA)

If a request for an appeal is filed by a caretaker within fifteen (15) days of the issuance of the notice of a founded determination of dependent adult abuse, DIA shall not place the caretaker on the central abuse registry until final agency action is taken.

If a caretaker fails to request an appeal of a founded determination within fifteen (15) days, the caretaker shall have sixty (60) days from the issuance of the written notification of the abuse findings to file an appeal pursuant to chapter 17A.

Under 235E, appeals of determinations other than founded, 235B.10 applies

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Dependent Adult Abuse Mandatory Reporter Training**

Criminal and Abuse Background Checks (135C.33)

All facilities and agencies that provide care to dependent adults must complete criminal and abuse background checks on prospective employees. If the applicant has either a criminal or abuse background, the employer may request a Records Check Evaluation be completed by the Department of Human Services, to determine if the person may be employed even though there is the criminal or abuse background.

Evaluations consider the following:

- The nature and seriousness of the crime in relation to the position;
- The time elapsed since the commission of the crime or founded abuse;
- The circumstances under which the crime or founded abuse was committed;
- The degree of rehabilitation;
- The likelihood the person will commit the crime or abuse again; and
- The number of crimes or founded abuses committed by the person involved.

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Dependent Adult Abuse Mandatory Reporter Training**

Notification of Rights

(Iowa Code 235B.3A)

1. If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all reasonable means to prevent further abuse, including but not limited to any of the following:
2. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer.
3. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.
4. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a copy of the notification of rights:

**REMEMBER
Dependent Adult Abuse is a CRIME**

Chapter 726 - Protection of the Family and Dependent Persons

726.7 Wanton neglect of a resident of a health care facility.

1. A person commits wanton neglect of a resident of a health care facility when the person knowingly acts in a manner likely to be injurious to the physical or mental welfare of a resident of a health care facility as defined in section 135C.1 .
2. A person who commits wanton neglect resulting in serious injury to a resident of a health care facility is guilty of a class "C" felony.
3. A person who commits wanton neglect not resulting in serious injury to a resident of a health care facility is guilty of an aggravated misdemeanor.

726.8 Wanton neglect or nonsupport of a dependent adult.

1. A caretaker commits wanton neglect of a dependent adult if the caretaker knowingly acts in a manner likely to be injurious to the physical, mental, or emotional welfare of a dependent adult. Wanton neglect of a dependent adult is a serious misdemeanor.
2. A person who has legal responsibility either through contract or court order for support of a dependent adult and who fails or refuses to provide support commits nonsupport. Nonsupport is a class "D" felony.
3. A person alleged to have committed wanton neglect or nonsupport of a dependent adult shall be charged with the respective offense unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.
4. For the purposes of this section, "*dependent adult*" means a dependent adult as defined in section 235B.2 , subsection 4, and "*caretaker*" means a caretaker as defined in section 235B.2 , subsection 1.

Determining Possible Interventions

1. Accepts Services
2. Lacks Capacity to Consent
3. Does Not Accept Services

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Dependent Adult Abuse Mandatory Reporter Training**

Accepts Services

- Implement a safety plan such as relocation, a protective order, or admission to a hospital.
- Alleviate causes of mistreatment through “voluntary services.”
- Provide written information on emergency numbers and make appropriate referrals.
- Get assistance in legal/financial matters.
- If the report is founded, the county attorney may bring criminal charges against the perpetrator.

Lacks Capacity to Consent

- Power of attorney. There must be a pre-existing power of attorney; once a person lacks capacity, they cannot sign such an agreement
- Conservatorship
- Guardianship
- Involuntary commitment of abuser or victim
- Special court order—injunctions, restraining orders
- Family member/guardian/case worker may want to consider social services, legal, or financial management assistance for the dependent adult
- If the report is founded, the perpetrator may be prosecuted

Does Not Accept Services

- Provide written information on emergency numbers and make appropriate referrals
- Develop contingency safety plan
- If there is immediate danger, consider involuntary relocation of the victim or perpetrator, or protective order, or commitment
- DO NOT enforce your decision without first taking the proper legal steps
- If the report is founded, the perpetrator may be prosecuted.

**State of Iowa's
Dependent Adult Abuse Mandatory Reporter Training**

Suggestions for Effective Post-Trauma Responses

The following responses are designed to aid the victim in coping with abuse or neglect.

- Assess the victim's psychological response to the abuse/neglect and his or her ability to cope with the situation.
- Tell the victim about services immediately available, such as hotlines, protective services, police, and legal actions.
- Encourage the dependent adult to make decisions him/herself. Maintain a non-judgmental attitude.
- Depending on the type of abuse, counseling may be provided through a geriatric program, a rape counseling program, a domestic violence center, or an adult abuse program.
- Inform the person about appropriate advocacy groups, such as legal services programs, protection and advocacy programs, the local area agencies on aging, or other relevant programs.

Interventions Available for Dependent Adults

- Legal Interventions
 - Conservatorship
 - Guardianship
 - Powers of Attorney
 - Protective, Restraining, and Injunctive Orders
 - Substance Abuse or Mental Health Commitment
- Long Term Care Ombudsman's Office
- LifeLong Links, Elder Rights Specialists
- Office of Substitute Decision Maker
- Voluntary Services

Overcoming Communication Barriers

- Use clear and simple language
- Ask open-ended, one-part questions
- Be an attentive listener and allow for periods of silence
- Allow sufficient time so that there is no time pressure
- Use explanations that progress from simple to complex
- Allow eye contact, but do not force it
- Allow plenty of space to move around: medication may induce restlessness
- Keep background noise to a minimum
- Sit facing older person to help them identify visual cues

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Ways to Ask About Abuse if Approached

- Be Direct
- Universalize the Question
- Gradual / Exploratory

Supportive Ways to Respond to an Abuse Victim

- Allow time for person to speak
- Listen
- Believe what the person says
- Empathize: validate the person's feelings
- Make it clear the abuse was wrong and it was not the person's fault
- Speak directly about the violence
- Ask in what ways you can be helpful
- Respect the person's right to self-determination
- Assure the person there are resources to help and that he or she is not alone
- Discuss a safety plan and offer follow-up contact

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Don'ts in Communicating with Victims

- Talk to the victim while others are present
- Blame the victim
- Tell the victim it is not that bad / minimize the pain
- Check out the story with the abuser
- Demand that the victim take a certain course of action
- Think you have failed if you did not fix the situation

Victim Characteristics

- Victim is competent to make decisions and wants help
- Victim is competent to make decisions and doesn't want help
- Victim is incompetent to make decisions and someone else needs to make decisions for that person
- Victim is competent to make decisions, but there are barriers to that person being able to ask or accept help

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What YOU Can Do

- Criminal Background Checks
- Work with your local area agency on aging
- Publicize the dependent adult abuse hotlines & resource numbers

Abuse in the Community -DHS (800/362-2178)

Abuse in Facilities or Programs - DIA (877) 686-0027

Medicaid Fraud - DIA 515-281-5717 or 515-281-7086

Information on Elder Abuse: LifeLong Links – 866-468-7887

- Encourage people to volunteer
- Invite a speaker with professional experience on dependent or older adults to talk to community groups
- Encourage people to identify dependent or older adults in the community who may be at risk

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Ten Tips for Preventing Abuse

1. Assess the person for signs of abuse/neglect
2. Assess the family at risk for abuse or neglect, and intervene as necessary before abuse occurs
3. Develop a trusting relationship with the older adult and their relatives
4. Offer guidance in care giving
5. Provide information about community resources and alternative living arrangements before an older person moves in with an adult child
6. Encourage the caretaker to join a self-help group or to utilize respite services
7. Emphasize the importance of social involvement
8. Report suspected abuse accurately
9. Consult a social worker about referring the person to community agencies or providing alternative living arrangements
10. The dependent or older adult may need to consider relocation in order to prevent abuse or neglect